

189809

FAA-02-13467-1

September 26, 2002

DEPT. OF TRANSPORTATION  
DOCKETS

02 SEP 27 AM 11:56

To: U.S. Department of Transportation  
Docket Management System  
400 7<sup>th</sup> Street, S.W. Room PL 401  
Washington, DC 20591-0001

**PETITION FOR EXEMPTION**  
**FROM FEDERAL AVIATION REGULATION PART 61.23**  
**TO PERMIT MEMBERS OF THE EXPERIMENTAL AIRCRAFT ASSOCIATION TO**  
**CONDUCT RECREATIONAL PILOT FLIGHT ACTIVITIES USING A U.S. STATE**  
**DRIVERS LICENSE IN LIEU OF AN FAA MEDICAL CERTIFICATE**

Petitioner: Experimental Aircraft Association, Inc.  
P.O. Box 3086  
Oshkosh, WI 54903-3086  
  
920-426-6522  
Fax: 920-426-6560  
e-mail: govt@eaa.org

### **PETITION SUMMARY**

Petition for exemption from Federal Aviation Regulation Part 61.23 to permit members of the Experimental Aircraft Association (EAA) to conduct Recreational Pilot flight activities using a U.S. state drivers license in lieu of an FAA medical certificate for the purpose of permitting EAA to create the Recreational Pilot "U.S. drivers license" medical research baseline.

### **REASON FOR PETITION**

EAA requests this exemption from FAR 61.23 to allow EAA members to conduct Recreational Pilot flight activities using a U.S. drivers license in lieu of an FAA Medical Certificate, and to permit EAA to create the Recreational Pilot "U.S. drivers license" medical research baseline. The collected information, in combination with lessons learned from the Sport Pilot (proposed) U.S. drivers license medical certification, will be used by both the FAA and general aviation organizations to establish that required baseline of information.

As stated in the Background section, EAA firmly believes that Recreational Pilots could safely operate as pilot-in-command of aircraft while performing flight as defined in FAR 61.101, while using a U.S. drivers license as verification of their flight medical status.

In the Final Rule for Recreational Pilot certification the FAA stated: "After extensive review and deliberation, the FAA has determined that there is no basis for deleting the third-class medical requirement for recreational pilots...". EAA's Petition for Rulemaking action on January 3, 1994, NPRM No. 27517, attempted to provide additional information or "basis" for the acceptance of a Recreational Pilot "self-certifying" their medical status as an acceptable medical certificate. Between 1994 and today EAA is aware that there has not been sufficient additional research by either the FAA or general aviation organizations to establish a greater basis for replacing the FAA Third Class medical certificate requirement for Recreational Pilots in FAR 61.23 with the requirement for a current and valid U.S. drivers license.

One of EAA's strategic long-term goals has been to assist the FAA in obtaining additional "basis" for a Recreational Pilot to be able to use a U.S. drivers license as their FAA acceptable medical certificate. Working with the FAA, EAA has continually promoted the use of a U.S. drivers license as an acceptable FAA medical document under the proposed Sport Pilot rules. This was the third step in gaining a greater "basis" for this issue.

EAA believes that with the adoption of the U.S. drivers license medical requirement for the proposed Sport Pilot Certification process, NPRM No. FAA-2001-11133, the FAA established one of the critical baseline criteria for this Recreational Pilot medical issue.

This exemption request seeks to add the final piece of additional research information to the baseline criteria. The combination of the information gained from this research exemption and from the proposed Sport Pilot rule should allow the FAA to make the decision to allow the use of a U.S. drivers license for Recreational Pilots an easy one.

EAA is requesting this research exemption be granted for a period of 5 years. The details of EAA's research plan are outlined under the Public Interest section.

## **BACKGROUND**

On June 25, 1985 the FAA published a Notice of Proposed Rulemaking (NPRM), Federal Register Docket No. 24695, the "Certification of Student Recreational, Recreational, Student Private and Private Pilots." This was the introduction of the new Recreational Pilot Certification process.

On October 21, 1985, EAA submitted its comments to the above NPRM. In our comments, EAA was the first general aviation organization to propose that a Recreational Pilot and a Recreational Student Pilot have the authority to "self-certify" their medical condition. EAA proposed that after making a "self-certification" that they had no known medical defect, a Recreational Pilot flying an aircraft under the terms of this NPRM would and should be allowed to act as a pilot-in-command of that aircraft. EAA strongly believed, as we do today, that the "self-certifying" medical provisions authorized for the glider and balloon pilot community should be extended to the Recreational Pilot community.

On March 29, 1989 the FAA published the Final Rule for the "Certification of Student Recreational, Recreational, Student Private and Private Pilots." In the Final Rule the FAA stated: "An overwhelming majority of the comments received on this issue favor self-certification." However, they also stated: "After extensive review and deliberation, the FAA has determined that there is no basis for deleting the third-class medical requirement for recreational pilots...".

On September 24, 1993, EAA submitted a Petition for Rulemaking (published as NPRM Docket No. 27517 on January 3, 1994) to the FAA for the purpose of changing FAR 61.3(c), 61.83(c), 61.85(b), 61.96(c), 61.103(3) and 61.101(i) to allow individuals holding Recreational Pilot Certificates, Student Pilots seeking a Recreational Pilot Certificate, Instructor Pilots conducting training to Recreational Pilots and students and those pilots with higher pilot certificates while exercising the privileges of a Recreational Pilot to, in lieu of holding a FAA Third Class Medical Certificate, "self-certify" that they have no known medical condition or defect that would make him or her unable to pilot an aircraft. After "self-certifying" that they have no known medical condition or defect, they would then be allowed to perform pilot-in-command duties in an aircraft that meets the Recreational Pilot restrictions. The act of "self-certifying" is identical to that required of lighter-than-air and glider pilots.

One of the primary exhibits of the September 24, 1993 petition was a flight safety chart and it's comparison of all accidents vs. those determined by NTSB to be pilot medical related. It clearly showed that pilot medical related accidents were a minuscule portion of the overall accident rate.

Accident Summary  
January 1, 1986 to December 31, 1992

	Total Accidents all causes	Medical cause accidents	Percentage of accidents due to medical causes
Lighter-than-air	327	0	0.00
Sailplanes	434	1	0.23
Total All "No Medical Required	761	1	0.13
Rotorcraft	2126	5	0.24
Other < 12,500 #	36,831	58	0.16
Other >12,500 #	5,983	32	0.53
Amateur-built	2,036	4	0.20
Total all medical required	46,976	99	0.21
Total all no medical required and medical required	47,737	100	0.21

On March 3, 1994, EAA submitted comments in support of NPRM No. 27517, adding additional information in support of our organizations belief that Recreational Pilots could safely "self-certify" their medical status. We stated that FAA NPRM Docket No. 21631, dated September 2, 1982, created the Ultralight Vehicle rules and the pilots operating these vehicles have been allowed to "self-certify" their medical flight status. EAA further stated that there has not been a single medical incapacitation accident that caused injury to persons or property since the Ultralight Vehicle rules were adopted in 1982.

On September 29, 1995 the FAA closed NPRM No. 27517 by disapproving the requested changes.

EAA feels the EAA petition, the above related comments and the safety information contained within it, is one of the primary driving forces behind the proposed Sport Pilot rule and the use of a U.S. state drivers license as the qualifying FAA medical document in the Sport Pilot rule, proposed Section 15.

On February 5, 2002 the FAA published the NPRM "Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft: Proposed Rule." Within this NPRM, the FAA proposed allowing this new class of airmen to use a FAA Third Class medical certificate or a current and valid U.S. drivers license.

Under the proposed Sport Pilot rule, the FAA states "the medical standards that permit an individual to drive an automobile in close proximity to other automobiles at high speeds provides an

adequate level of safety to operate a light-sport aircraft.” If the drivers license applicant cannot meet these minimum standards, the FAA states: “...the individual should not operate a light-sport aircraft, a more complex and demanding activity.” EAA agrees that the issuing of a U.S. drivers license occurs only after the applicant demonstrates some basic level of health on their application and passes a minimum vision standard test as required by the issuing authority.

EAA agrees with the FAA that a U.S. drivers license can safely be used to set minimum medical safety standards for those flying for sport and recreation – Sport Pilots **and** Recreational Pilots. The purpose of this exemption is to provide the FAA the baseline research information needed to expand the use of the U.S. drivers license medical program into the Recreational Pilot arena.

### **INTEREST OF THE PETITIONER**

The Experimental Aircraft Association (EAA) is a non-stock Wisconsin corporation, which has been granted 501(c) (3) status, by the Internal Revenue Service. EAA brings together aviation enthusiasts, pilots and aircraft owners who are dedicated to the continued growth of aviation, the preservation of its history and a commitment to aviation’s future. EAA programs, activities and events are known throughout the world for supporting aviation safety and promoting personal enjoyment and responsibility within an aviation lifestyle. EAA’s goal of promoting aeronautical educational experiences is achieved by providing its members and the general public with access to the world of flight. Much of this access takes place through outreach programs coordinated through EAA Chapters, which are located throughout the country. These chapters are separately incorporated entities, which conduct their own educational, charitable and other programs for their members and the general public.

As such, EAA feels that the granting of this exemption will provide the possibility of future growth in all general aviation related activities.

The motives of this exemption request is to seek, through research, a reduction of burden on the citizens, a reduction in government involvement and expenditures, as well as assurance of public safety. This proposal meets those goals. The proposed research project serves the purpose of encouraging flight proficiency and safety, while promoting additional flight activity and the resultant positive economic impact that such increased activity has on all segments of sport and general aviation. This economic impact includes increased commerce for manufacturers of aircraft and parts, as well as service providers.

### **SAFETY ISSUES**

The safety of its member pilots and the general public is a fundamental concern of EAA.

EAA recognizes that the FAA, EAA members and the general public must be confident that a level of safety, equivalent to the current Recreational Pilot rules is expected throughout this research period.

Recreational Pilot & Drivers License  
EAA Exemption Petition  
9/26/2002 - Page 6

To determine if this research project could be conducted safely, EAA:

1. Determined that any Recreational Pilots who would be operating under the terms of the exemption would be fully aware of the FAA medical guidelines contained in Chapter 8 of the Airman's Information Manual (AIM).
2. Determined that all pilots, no matter what level of pilot certificate they hold, are aware of the requirements of FAR 61.14, 61.15, 61.16, 61.53, 61.56, 61.57, 61.59, 91.7, 91.17 and 91.19.
3. Determined that all pilots, no matter what level of pilot certificate they hold, are aware of the requirements of FAR 61 Subpart B, Recreational Pilot privileges and limitations, including:
  - a. §61.101(a)(1) – Carry no more than one passenger;
  - b. §61.101(b) – Flight is restricted to 50 nm from the departure airport, unless training and a logbook endorsement has been received per §61.101(c);
  - c. §61.101(d)(1) – Flight is restricted to aircraft with four or fewer seats, that is not a multiengine aircraft, has a powerplant of 180 hp or less and does not have retractable landing gear;
  - d. §61.101(d)(4) – Flight for compensation or hire is not authorized;
  - e. §61.101(d)(6) – Flight is restricted to daylight hours defined as between sunrise and sunset; and
  - f. §61.101(d)(8), (9), & (10) – Flight is restricted to an altitude of 10,000 feet MSL or 2,000 feet AGL (whichever is higher), flight or ground visibility must be 3 sm or greater, and pilot must maintain visual reference with the surface.
4. Determined that all pilots operating under the terms of this exemption would hold a minimum of a Recreational Pilots certificate. Database information concerning student pilots training for Recreational Pilot certificates using a U.S. drivers license will not be part of this study, as EAA feels sufficient information in this area can be obtained through the proposed Sport Pilot student pilot training programs and current Ultralight pilot training programs.
5. Revisited the accident safety chart for the period January 1, 1993 to December 31, 2000. In addition, EAA could not find any record of any Ultralight Vehicle accident related to a medical condition.

Based on the below accident data review, EAA feels this Recreational Pilot research project could be conducted in a safe manner, without creating undue risk to persons or property on the ground or the passengers carried in each aircraft.

Accident Summary  
January 1, 1993 to December 31, 2000

	Total Accidents all causes	Medical cause accidents	Percentage of accidents due to medical causes
Lighter-than-air	314	0	0.00
Sailplanes	392	1	0.25
Total All "No Medical Required	706	1	0.14
Rotorcraft	2205	8	0.36
Other < 12,500 #	33024	42	0.12
Other >12,500 #	5537	75	1.35
Amateur-built	2618	12	0.46
Total all medical required	43384	137	0.31
Total all no medical required and medical required	44090	138	0.31

**PUBLIC INTEREST ISSUES**

The database created by this exemption, when combined with lessons learned from the Sport Pilot (proposed) U.S. drivers license rule will be sufficient to develop a baseline of research information for the FAA to make a reasonable decision on the Recreational Pilots future use of a U.S. drivers license as a viable medical option.

If this Petition for Exemption is approved, EAA would:

1. Require pilots applying to be part of this research project to:
  - a. Submit a copy of their U.S. Pilots certificate
  - b. Submit a copy of their U.S. state drivers license, issued from a state, the District of Columbia, Puerto Rico, a territory, a possession or the Federal government.
  - c. Sign and submit an EAA conditions form which will outline the terms of the exemption and that the individual is aware of the FAA drug and alcohol prevention programs outlined in FAR 61 and 91, and the Recreational Pilot privileges and limitations listed in FAR 61 Subpart D.

Recreational Pilot & Drivers License  
EAA Exemption Petition  
9/26/2002 - Page 8

2. Initially upon an individual's acceptance, then annually thereafter, EAA would submit a list of participating individuals to FAA Flight Standards Service, the FAA Federal Air Surgeon, and the FAA Civil Aeromedical Institute (AAM-300).
3. Upon acceptance into this research project, EAA will provide an acceptance letter and a copy of the exemption to each individual that they must carry at all times while they are flying. It would provide them the authority to act as pilot-in-command when operating under the terms of this exemption. This acceptance letter will act as their authority to take the required flight training per FAR 61.56 and 61.57.
4. Recreational Pilots operating under the terms of this exemption will be authorized to act as pilot-in-command within the limits of this exemption, FAR 61 Subpart D, and they:
  - a. Must hold a current and valid U.S. drivers license;
  - b. If their U.S. drivers license has a qualifying requirement, e.g., must wear corrective lenses, etc., then those qualifying requirements apply to operating an aircraft under this exemption;
  - c. Must not act as pilot-in-command of the aircraft if they know or have reason to know of any medical condition that would make them unable to operate the aircraft in a safe manner;
  - d. Must not act as pilot-in-command if their drivers license is revoked, rescinded, or suspended for any reason. If a doctor treating the individual recommends that the individual not drive until completion of a treatment program or if their prescription has a warning label "do not operate machinery", "do not drive", "may cause drowsiness", or similar warning, then the individual will consider his drivers license "suspended" under the terms of this exemption until such time as the treatment/prescription program ends.
  - e. Must maintain currency per FAR 61.56 and FAR 61.57.
  - f. Must provide the exemption holder, EAA, with a semi-annual report (December - May and June - November), electronic or mailed letter, indicating:
    - i. That they are still participating in the test program (Yes or No).
    - ii. Have flown \_\_\_\_\_ hours in aircraft qualified under FAR 61 Subpart D.
    - iii. Registration numbers ("N" numbers) of the aircraft flown during the reporting period.
    - iv. The date of their last FAR 61.56 flight review and the instructor's name/certificate number.
    - v. List any/all prescribed medications taken during the reporting period;
    - vi. Aircraft accident/incidents:
      - Were you involved in an accident/incident during the reporting time period (Yes or No);
      - Cause of the accident - medical, mechanical, weather or other;
      - "N" number of the aircraft involved in the accident/incident;
      - List any medications you were taking; and
      - Name of investigating FSDO.



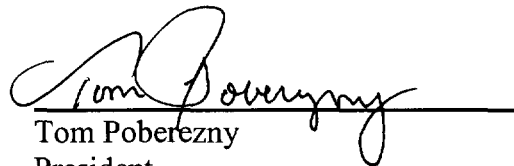
5. EAA and the FAA reserve the right to terminate any program participant who fails to comply with the terms of this exemption. Failure to submit semi-annual reports to EAA is cause for termination from the program. Upon termination, the individual would be required to comply with the FAA pilot medical requirements of FAR 61.23 prior to further flight.
6. Upon termination of this exemption all participating pilots would be required to comply with the FAA pilot medical requirements of FAR 61.23 prior to further flight.

### **DESCRIPTION OF THE RELIEF SOUGHT**

EAA is seeking a 5 year exemption for the purpose of conducting research on the viability of allowing individuals holding Recreational Pilot certificates, or higher, to act as pilot-in-command of aircraft in compliance with FAR 61, Subpart D, while holding a current and valid U.S. drivers license. The exemption would state:

Petition for exemption from Federal Aviation Regulation Part 61.23 to permit members of the Experimental Aircraft Association to conduct Recreational Pilot flight activities using a U.S. state drivers license in lieu of an FAA medical certificate for the purpose of permitting EAA to create the Recreational Pilot "U.S. drivers license" medical research baseline.

September 26, 2002



Tom Poberezny  
President

Experimental Aircraft Association, Inc.